Hybrid Systems: In the past, the Energy Commission's Renewable Energy Program (REP) provided that renewable facilities using fossil fuels were eligible for funding as long as the percentage of fossil fuel used did not exceed 25 percent of the total energy input of the facility during a given calendar year. As long as a facility did not use more than 25 percent fossil fuel, the total generation, including the portion produced with fossil fuels, was considered eligible for funding by the Energy Commission. The Committee recommends the same treatment under the RPS for existing facilities that originally commenced commercial operations prior to January 1, 2002 and have not been repowered.

For new and repowered facilities that operate on co-fired fuels or a mix of fuels that includes fossil fuel, the Committee recommends certifying the entire output from all facilities that comply with the Federal Energy Regulatory Commission-approved fuel use standards applicable to small power production qualifying facilities. *See* 18 C.F.R. § 292.204(b), *Southern California Edison Co. v.FERC*, 195 F.3d 17 (D.C. Cir. 1999). For any facilities that do not comply with the above QF fossil fuel use limitations, the Committee would allow only the renewable portion of the electricity production to qualify for the RPS, pending the development of an appropriate tracking system for such electricity production. For such facilities, the Committee also recommends allowing a small amount of fossil fuel use, up to two percent of the total annual fuel input, to be used at a facility without a reduction in the amount of eligible generation. Facilities that use more than two percent fossil fuel will have their RPS eligible generation reduced by that **Note: Segregating out as non-RPS eligible the portion of output from a renewable facility whose fossil fuel use complies with standards applicable to a QF is problematic, both from a practical and a legal standpoint. As a practical matter, a rule limiting the RPS eligility of such facilities may eliminate from RPS participation many promising and tested renewable technologies, e.g. natural gas-assisted solar projects. In addition, there would be significant accounting, monitoring and compliance challenges in implementing such a segregation protocol that appear to be entirely unnecessary in the case of such otherwise compliant facilities. Moreover, SCE questions the Energy Commission's legal authority to deem RPS eligible *any* portion of the output of a facility which qualifies as an eligible renewable energy resource under the RPS statute. Public Utilities Code sections 399.12(a)(1) and 383.5 (b)(1) provide that an eligible renewable energy resource is a "facility"which uses an approved technology, not an Energy Commission-determined portion of the output of such a facility. At least for facilities which comply with tested and recognized fossil fuel use limitations (i.e. the QF fuel use limitations noted above), the segregation of such output is legally suspect.**

Before hybrid facilities that do not meet the above-referenced FERC QF fuel use limitations can be certified as RPS eligible, the Energy Commission will need to develop a methodology as part of the tracking system to measure the renewable fraction of generation . This methodology could be based on the total heat input of the fuel, for example. As part of their application for certification from the Energy Commission, parties interested in certifying such facilities are invited to propose an appropriate tracking methodology for their facility.

Pumped storage hydro may qualify for the RPS to the extent that: 1) the facility meets the eligibility requirements for small hydro, and 2) the electricity used to pump the water qualifies as RPS eligible. The amount of energy that may qualify for the RPS is the amount of electricity dispatched from the system.

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